

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas'

Alison R. Lee, Circuit Court Judge

Appellate Case No: 2012-212896

Charles Taylor,

Appellant,

v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company, Respondents,

APPELLANT'S FINAL REPLY BRIEF

RECEIVED

MAY 14 2013

SC Court of Appeals

Charles Taylor
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For the Appellant/Pro-Se

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STATEMENT of ISSUES on APPEAL

Once a notice of appeal was filed 6/8/11 (R.p. 11) did the lower court have jurisdiction- authority (SCACR 205) and/or erred, to rule to State Farm (appellant final brief p.4 B1-b5) & (Davis' final brief p.7 #12-16) in a closed 6/27/11 Appeals Court Case (R.p.2-4)?

STATEMENT of THE CASE

Same statement of the case as in appellant's final brief

Same statement of the case as in respondent Thomas Davis' final brief

RELEVANT FACTS

Same relevant facts as in appellant's final brief

Same relevant facts as in respondent Thomas Davis' final brief

REPLY-ARGUMENT

(Discussion, Citation, Authority)

(1). As to Respondent Thomas Davis' Final brief, Appellant adopts by reference ALL Respondent Thomas Davis' Final Brief pursuant to SCACR 208 (b)(6); and incorporates same herein as part Appellant's rebuttal-refuting reply to;

(2). Respondent State Farm's Initial Brief here as follows:

2-a. Respondent State Farm for whatever reason(s) didn't address the specific issues raise on appeal as stated under the: Statement of Issues, atop this page;

P.1

2-a-1. Respondent State Farm's whole approach and attempts in its initial brief is aimed towards re-litigating all the subject myriad of issues litigated since the case first began way back in 2007; and which ultimately--when all was said and done--ended on 7/17/12 with a final \$1,735,000.00 judgment in Appellant's favor (R.p.9L.4-5); defended by State Farm atty...per Section.38-77-160;

2-a-2. Respondent Thomas Davis' Final Brief; properly and to the point, addressed & answered the specific question(s) subject the appeal that; in his opinion, no the lower court didn't have the Jurisdiction-Authority after an appeal was filed on 6/8/11, (See R. p. 11), & otherwise did erred, (SCACR 205) to rule such-(Appellant final Brief p.4 B1-b5)--to Respondent State Farm, (Davis Final Brief p.7 #12-16), and such should be reversed-**(Per Appellant's & Respondent Davis' Final Briefs)**;

2-a-3. Respondent State Farm's Initial Brief; **[did not]** properly and to the point, addressed and answered, fully and satisfactorily, the specific and relevant question(s), subject the appeal---but; rather-State Farm decided to raise, other collateral-new & irrelevant-besides the point, straw man issue(s) & then argued against same to appear to knocked them down; all in an attempt to distract this Court's attention away from the real issue(s) raised, per Appellant's appeal, as earlier stated;

2-a-4. Specifically, per Respondent State Farm, purposefully misstating the specifics below---to set up Straw Man Issue(s) as follows that; THE TRIAL JUDGE DID NOT ERR IN DENYING APPELLANT'S MOTION WHICH SOUGHT TO OBLIGATE RESPONDENT STATE FARM TO PAY AN "AMENDED JUDGMENT" ENTERED INTO BETWEEN APPELLANT AND RESPONDENT DAVIS;

2-a-5. As one can easily see, that is not the specific question on appeal, (see such on top p.3), & even if it were, Appellant denies ever filing such a specific worded motion in the first instance; (see R.p.12-13 the specific motion); and also reference the final judgment, (See R.p.9 L. 4-5); &

2-a-6. Same Per Respondent State Farm purposefully **mixing** to confuse the issue; THE LOWER COURT DID HAVE JURISDICTION, TO ISSUE ITS ORDER OF 07-17-2012, FOLLOWING REMITTUR.of the ACTION by the SOUTH CAROLINA COURT.of APPEALS 6/27/11, but;

2-a-7. **[No one disputes the lower court's jurisdiction to enter the final judgment (after the appeals court order 6/27/11) into the lower court record per request; (R.p.13 & p.9. L.4-5);**

2-a-8. As one can easily see, that is not the specific questions on appeal; which is on the top p. 1 above; this is what Respondent State Farm didn't properly, to the point, etc., address nor answer;

2-a-9 . All else in Respondent State Farm Initial Brief--likewise--argue beside the point matters; not addressing and answering the specific question(s) on appeal; **and again**; such arguments on besides the point matters are irrelevant and/or wasn't the subject of the 5/17/12 motion hearing anyway, nor was such properly before the court in any case; (R.p.12-13 & top p.5); **& if it were, who put it there? When? by what means? State Farm said it was not a party then-(R.p.18).**

2-a-10. Thus Appellant's position is simple & clear; here stated again; that whatever Respondent State Farm wanted, wanted to complain about, wanted to ask for etc. etc., after appellant filed his initial appeal on 6/8/11 per SCACR 205, such should've been filed to the S.C. Court of Appeals and/or to the S.C. Supreme Court in a [timely manner] for such rulings as in (Appellant Final Brief p.4 B1-b5) & (Respondent Davis Final Brief p.7 #12-16); **[OTHERWISE!];**

2-a-11. All arguments in Respondent State Farm Initial Brief are; Irrelevant and besides the point, even if it all could be accurate and true, which obviously it can not be, in light of appellant's and Respondent Davis' Final Briefs & the subject Record on Appeal to back same up, all of which speak for themselves!; in rebutting and refuting any Respondent State Farm's relevant and to the point contentions, if any, in its initial brief filed 3-15-13;

2-a-12. Also State Farm Statement of the Case contains much contested matter violating (SCACR 208(b)(1)(C) & disputed in (Respondent Davis & Appellant Final briefs & roa;

2-a-13. Also everything in Respondent State Farm's Initial Brief 3-15-13, which does not respond directly to the specific issue(s) on appeal, on top of page 1 above, are irrelevant and besides the point, etc. etc.; and even if it wasn't, [again], all of such arguments of Respondent State Farm should have been previously filed to the S.C. Court of Appeals &/or the S. C. Supreme Court [in a timely manner]; otherwise; such can't thereafter be raised-period. Thus accordingly, the conclusions in Appellant's and Respondent Davis' Final Briefs, should prevail, per this appeal & Appellant prays that such is the opinion, ruling & order of this Court to finally conclude this case after 6 yrs of litigation since 07; all of which issues Respondent State Farm's attempting to belatedly relitigate in its brief which obviously is not permitted by the SCACR--See such attempts in S. F. Initial Brief;

2-a-14. Also note a strange & peculiar argument by Respondent State Farm never before heard of by appellant-which argument in State Farm brief p.4 last para. L.4-5 essentially alleges that; once a jury render an initial judgment--an appeal can have no effect on that judgment-thereafter regardless; that judgment is a final judgment-appeal or not! even notwithstanding (R.p.17);

2-a-15. The reason appellant call this position strange and peculiar by Respondent State Farm is because: (#1).To begin with, it was their bad faith that caused the appeal in the 1st place that led to the subject \$1,735,000.00 final judgment that ultimately ended this case; (#2).In a famous case [State Farm Mutual Automobile Insurance Company v. Campbell] the jury returned a judgment for \$145,000,000.00 dollars against State Farm, which they appeal & got it changed by the U.S. Supreme Court. So their argument put forth in their brief, about appealing effect, doesn't square with their appealing in that case to change a jury judgment. The crux of their argument are that Appellant could not appeal and/or that even if he did as in the instant case, the initial judgment is a final judgment regardless to what happen upon appeal. This Court may wish to opine on this strange and peculiar contradictory argument-theory put forth by Respondent State Farm that an initial judgment is a final judgment—appeal thereafter or not. It appears they're confused on the two judgments unless they're conveniently and deliberately faking ignorance to form a smoke screen to avoid their binding—by their own actions---liability for the subject \$1,735,000.00 final Judgment entered in this case (R.p.10, 9). & Appellant & Davis Briefs.&

2-a-16. As to issues throughout Respondent State Farm Initial Brief swearing, Appellant believes (falsely)-(now), that they did not represent or speak for Davis without his permission. They did so, underhandedly, & in all other respects (R.p.21,22,10) according to Davis; & to confirm & resolve this central all important question, see specifically (R. p. 19 & 20 & 4) and (Respondent Davis' Final Brief) both of which may resolve-answer this and all other relevant issues-questions per this appeal for this Court including why Davis did what he did after Appellant's 1st appeal;

2-a-17. Also take special notice of State Farm in its brief, (now--belatedly), complaining about being bounded by the subject final \$1,735,000.00 judgment (R.p.10, 9); but they don't bother to explain how and why that happened-see Respondent Davis' Final Brief and please likewise note, how and why Respondent State Farm could have and should have avoided such outcome for all concerned, but chose not to, (R.p.19, 20, 4 & 14); gambling in bad faith on its actions binding only Respondent Davis to the ultimate outcome of appellant's appeal!; unless Davis took action to limit--as best he could--his own exposure to a potential mega judgment-like for example as in; State Farm v. Campbell for \$145,000,000.00 which show what could unexpectedly happen.

2-a-18. On the same subject; **note specifically that;** nothing else withstanding, it was State Farm own actions, **bad faith and/or otherwise,** above all else, that binded them, first and foremost, & which-again-they could have avoided at any time but chose not to, (R.p.19,20,4,14,10 & 21-23);

SO THEN ON WHAT LEGITIMATE GROUNDS CAN THEY COMPLAIN-BLAME OTHERS FOR THEIR BEING BOUNDED TO THE SUBJECT \$1,735,000.00 FINAL JUDGMENT WHICH IN ANY CASE, THEY ULTIMATELY, CAUSE THEMSELF?

[Also see Appellant's Final Briefs and same per Respondent Davis].

2-a-19.**But again, all that notwithstanding; the issues on appeal still remains as stated atop p.1 above, and again; all other such arguments now put forth by Respondent State Farm are quite untimely from 6/27/11 (R. p. 2 - 4) until 5/7/12 when such arguments 1st (improperly albeit) was put forth by State Farm, which should have been, properly put forth, to this Court or the S. C. Supreme Court in a timely manner; after appellant 1st appealed of 6/8/1--see (R.p.11) &;**

NOTE: That nothing in 38-77-160 or any of the other authorities cited by state farm in its brief, gave them the right to: (1).commit bad faith; (2). jeopardize at will the interest of all other parties to protect its own and then walk away in the end with no liability; (3).blame others for binding them when in fact it was their own actions that binded themselves up to the whole final \$1,735,000.00 judgment; (4).not to put forth any matters to this or the S.C. Supreme Court in a timely manner for whatever relief it wanted; (5).Improperly put matters before & seek relief from the lower court; (6).claim an appeal have essentially no effect; (7).to underhandedly represent the at fault party & claim otherwise without any liability in the end; (8).state in writing that they was looking out only for their interest and nobody else's; (9).require others to look out for its interest; (10).note that the same 38-77-160 expressly states: That no underinsured motorist policy may contain a clause requiring the insurer's consent to settle with the at fault party; (R. p. 14); meaning such parties could settle at will at any time prior to, during, or after trial, upon appeal, or whenever; contrary to state farm alleging otherwise.

As to any-all of the above-see; (Appellant's & Respondent Davis' Final Briefs & R on A.

ALSO; IT'S IMPERATIVE TO NOTE THAT IT WAS STATE FARM OWN ACTIONS ABOVE ALL ELSE THAT BINDED THEM TO THE FINAL \$1,735,000.00 JUDGMENT ENDING THE CASE--see--SAME BRIEFS ABOVE FOR THE FACTS & THE PROOF.

2-a-20. As to State Farm in its brief on, (p.4 2nd paragraph L.1), now claiming ignorance; that it was not privy to the subject Appeals Court Settlement Agreement prior to; see-(R. p. 19 & 20) and otherwise see Respondent Davis' Final Brief);

2-a-21. Again--on the issue of binding State Farm; they failed in their brief to state such binding was initiated by a contract policy between Appellant and State Farm whereby Appellant had paid premiums to State Farm for years for such coverage protection which they in bad faith refuse to fully honor to the policy limits. Appellant never sought to bind State Farm otherwise; except by their own refusal they binded themselves to the \$1,735,000.00 final judgment that ended this case; (R.p.10, 21-22 & 2-4);

2-a-22. Also as to State Farm argument that they cannot be bounded--note that: S.C. Section 15-35-350 which in pertinent part provide among other things that; a judgment may be entered to secure any person against a contingent liability; as in the instant case when such was on appeal; see (R.p.2-4&19-20) & (Respondent Davis' Final Brief), & also see related Section 15-35-380;

2-a-23. Also note that no one disputed this case ultimately ended with a final \$1,735,000.00 Judgment, see (R. p. 9 L. 4 -5) and no one dispute Respondent Davis acknowledgement of the actual damages he caused, see Appellant briefs & (R. p. 4, 19, 20, example p.15-16); and (Respondent Davis' brief p.3 2nd paragraph) and no one ever did or could disputed such in a Court of law, with appellant documented proof--see sample--(R. p. 15-16, p. 4 and p. 19-20);

NOTE: That in the final analysis, this case may resolve itself upon the determination of which judgment; [an initial judgment] or [a final judgment]; is controlling in this case--or any case? Appellant believes the latter and, State Farm [say] they believes the former; or do they--since in State Farm v. Campbell, they took the latter judgment position as the initial was for \$145,000,000.00 against them. P.7

2-a-24. Also where did Respondent State Farm get the notion that they can defend (38-77-160) but they cannot be bound by the ultimate lawful final judgment enter in the case-(R.p.2-4 & p.9 L.4-5) ending the case; **Presumably they can defend because they can & will be bound by the final outcome-judgment; specifically because S. C. 38-77-160 goes on to purposefully state that: no underinsured motorist policy may contain a clause requiring the insurer's consent to settlement with the at fault party, (R.p.14); Now why does it purposefully say that at the end? Appellant argues; So that the insurers are forewarned, they can be lawfully bound (R.p.10) so that they can & should act accordingly. In the instant case, Respondent State Farm ignored such warning knowingly (R. p. 4, 19, 20 & otherwise). Then they, belatedly, out of the blue, at the hearing of 5-7-12, asked the Lower Court-essentially-for protection per the subject rulings-(Appellant's Final Brief p.4 B1-b5) & (Respondent Davis' Final Brief p. 7 #12 -1 6); which was granted---appellant argues; without jurisdiction-authority &/or err-which Appellant now seek reversal for reasons & upon grounds stated in Appellant & Respondent Davis Final Briefs & roa backing same.**

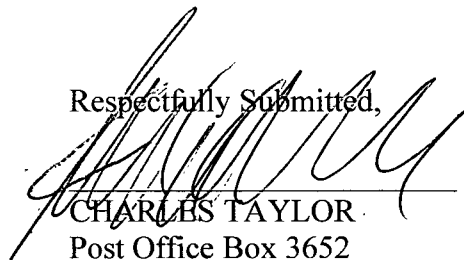
CONCLUSIONS

Same conclusion relief requested as in Appellant's **Final** Brief

Same conclusion relief requested as in Respondent Thomas Davis' **Final** Brief

May 11, 2013

Respectfully Submitted,


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THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Alison R. Lee, Circuit Court Judge

Appellate Case No: 2012-212896

Charles Taylor,

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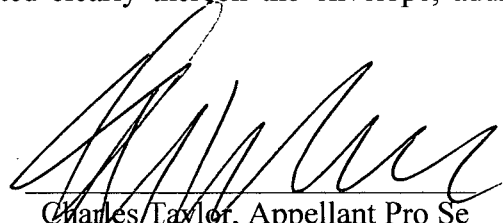
v.

Thomas Davis and
State Farm Mutual Automobile Insurance Company, Respondents,

PROOF OF SERVICE

I hereby certify that a copy of Appellant's Final Reply Brief; was served upon Respondents Thomas Davis & State Farm Mutual Automobile Insurance Company to its counsel below by depositing same in the U.S. Mail, from Sumter, SC. on the 11th day of May, 2013, w/1st class duly affixed postage & a return address indicated clearly thereon the envelope, addressed as follows:

May 11, 2013



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CERTIFICATE OF COUNSEL

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SC Court of Appeals

The undersigned hereby certifies that Appellant's Final reply Brief complies with rule 211(b), [including minor corrections, if any, made necessary by Respondent State Farm Mutual Automobile Insurance Company being include for 1st time as a proper defendant / respondent in with this Court's 2/15/13 Order].

May 11, 2013

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